



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

## REGION 8

2005 SEP 28 AM 11:37

**999 18<sup>TH</sup> STREET- SUITE 300**

**DENVER, CO 80202-2466**

**Phone 800-227-8917**

**<http://www.epa.gov/region08>**

FILED  
EPA REGION VIII  
HEARING CLERK

**DOCKET NO.: CWA-08-2005-0056**

IN THE MATTER OF:

**BOLD PETROLEUM, INC.**  
**d/b/a ACORN FOOD STORE**


RESPONDENT

## FINAL ORDER

Pursuant to 40 C.F.R. §22.18, of EPA's Consolidated Rules of Practice, the Consent Agreement resolving this matter is hereby approved and incorporated by reference into this Final Order. The Respondents are hereby **ORDERED** to comply with all of the terms of the Consent Agreement, effective immediately upon receipt by Respondents of this Consent Agreement and Final Order.

September 28, 2005  
DATE

DATE \_\_\_\_\_

  
Alfred C. Smith  
Regional Judicial Officer

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Regional Judicial Officer

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

2005 SEP 28 AM 11:38

DOCKET NO.: CWA-08-2005-0056

In the Matter of:

Bold Petroleum, Inc.,  
d.b.a. Acorn Food Store

Respondent.

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**EXPEDITED CONSENT AGREEMENT**

FILED  
EPA REGION VIII  
HEARING CLERK

Complainant, United States Environmental Protection Agency, Region VIII, and Respondent, Bold Petroleum, Incorporated by their undersigned representatives, hereby settle the civil cause of action arising out of a spill of oil that occurred on May 15, 2003, and agree as follows:

The Clean Water Act (the Act), as amended, authorizes the Administrator of EPA to assess administrative penalties against any person who discharges oil into or upon the navigable waters and adjoining shorelines of the United States in quantities that have been determined may be harmful to the public health or welfare or environment of the United States. 33 U.S.C. § 1321(b)(6)(B)(i) and (b)(3). This determination includes discharges of oil that (1) violate applicable water quality standards, (2) cause a film, sheen, or discoloration of the surface of the water or the adjoining shorelines, or (3) cause a sludge or emulsion to be deposited beneath the surface of the water or the adjoining shoreline. 40 C.F.R. § 110.3. This authority has been properly delegated to the undersigned EPA official.

Respondent admits that on May 15, 2003, there was a discharge of 400 gallons of diesel fuel into or upon the Persigo Wash, a tributary to the Colorado River and/or adjoining shorelines from its facility, in Mesa County, Colorado.

Respondent's facility's discharge caused a sheen upon or discoloration of the surface of the Colorado River and/or adjoining shorelines.

Respondent also owns and/or operates a bulk petroleum facility located at 222 Highway 6 and 50, Grand Junction, Colorado.

Respondent's discharge constitutes a violation of Section 311 (b)(3) of the Act.

Respondent admits its facility is subject to SPCC regulations.

Respondent agrees to correct the items cited in the attached List of SPCC Violations within thirty (30) days unless an extension for achieving compliance is granted by EPA at its discretion.

Respondent agrees to send a copy of the facility's revised SPCC Plan to person named below.

Respondent admits that EPA has jurisdiction in this proceeding.

Respondent waives its right to a hearing before any civil tribunal, to contest any issue of law or fact set forth in this agreement.

This agreement, upon incorporation into a final order, applies to and is binding upon EPA and upon Respondent and Respondent's heirs, successors and assigns. Any change in ownership or corporate status of Respondent, including but not limited to any transfer of assets or real or personal property, shall not alter Respondent's responsibilities under this agreement.

This Agreement contains all terms of the settlement agreed to by the parties.

Respondent consents and agrees to the assessment of a civil penalty of \$3,750.00 which shall be paid by sending, via certified mail, a cashier's or certified check for that amount, payable to "Oil Spill Liability Trust Fund" along with a signed copy of this Agreement to:

Jane Nakad  
Technical Enforcement Program (8ENF-UFO)  
USEPA Region 8  
999 18th Street, Suite 300  
Denver, CO 80202-2466

Respondent further agrees and consents that if Respondent fails to pay the penalty amount as required by this agreement once incorporated into the final order, or has not cleaned up the discharged oil as represented, this agreement is null and void, and EPA may pursue any applicable enforcement options.

Respondent states, under penalty of perjury, that it has (1) investigated the cause of the spill, (2) cleaned the spill up pursuant to federal requirements, and (3) taken corrective actions to prevent future spills.

The undersigned representative of Respondent certifies that he/she is fully authorized to enter into the terms and conditions for this agreement and to bind Respondent to the terms and conditions of this agreement.

The parties agree to submit this Consent Agreement to the Regional Judicial Officer, with a request that it be incorporated into a final consent order.

Each party shall bear its own costs and attorneys fees in connection with this matter.

This Consent Agreement, upon incorporation into a final consent order by the Regional Judicial Officer and full satisfaction by the parties, shall be a complete and full civil settlement of the specific violations described in this agreement.

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, REGION VIII,  
Office of Enforcement Compliance and Environmental Justice, Complainant.**

By: Elisabeth Evans  
Elisabeth Evans, Director  
Technical Enforcement Program  
Office of Enforcement, Compliance and  
Environmental Justice

Date: 9/27/05

**Bold Petroleum, Incorporated, Respondent.**

By: Harlan L. DCHS

Name: HARLAN L. DCHS  
Title: PRESIDENT  
Date: 9-22-05

## List of SPCC Plan Violations

### SPCC Plan [40 C.F.R. § 112.3]:

Failure to prepare and implement a facility SPCC Plan in accordance with 40 C.F.R. §§ 112.7 and 112.8.

The specific deficiencies in the Bold Petroleum, Incorporated SPCC Plan are:

Inadequate discharge prediction in violation of 40 C.F.R. § 112.7(b).  
All likely discharge scenarios are not listed and no direction is indicated for all potential discharges which are listed.

Inadequate discussion or existence of containment and/or diversionary structures for loading/unloading areas and other areas from which a discharge could reach navigable waters in violation of 40 C.F.R. § 112.7(c).  
Also it is not clear whether a discharge will be prevented from entering the storm drains.

Lacks adequate discussion of facility security measures (i.e. fencing and master flow and drain valves) in violation of 40 C.F.R. § 112.7(g).

No discussion of drainage control from diked areas in violation of 40 C.F.R. § 112.8(b).

No discussion of the drainage procedure for uncontaminated rainwater from the diked area in violation of 40 C.F.R. § 112.8(c).

No discussion of engineered container installation to avoid discharges in violation of 40 C.F.R. § 112.8(c)(8).

No procedures to promptly correct visible discharges in violation of 40 C.F.R. § 112.8(c)(10).

Inadequate discussion of buried piping in violation of 40 C.F.R. § 112.8(d).

No procedures for capping/blank flanging connections of piping which has been disconnected or placed in standby mode in violation of 40 C.F.R. § 112.8(d)(2).

Lacks discussion of proper design of above ground pipe supports in violation of 40 C.F.R. § 112.8(d)(3).

No provision to warn vehicles of above ground piping and other transfer operations in violation of 40 C.F.R. § 112.8(d)(5).

The Plan must address all SPCC requirements, or indicate why they are inapplicable to the facility. In addition to the above violations your SPCC Plan will need to be revised to bring it into compliance with the revised rule of July 17, 2002.

All piping and transfer stations are not indicated on the facility diagram as required by 40 C.F.R. § 112.7(a)(3).

Inadequate discharge notification form as required by 40 C.F.R. § 112.7(a)(4).

## CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **EXPEDITED CONSENT AGREEMENT/FINAL ORDER** in the matter **BOLD PETROLEUM, INC., d/b/a ACORN FOOD STORE, LLC., DOCKET NO.: CWA-08-2005-0056** was filed with the Regional Hearing Clerk on September 28, 2005


Further, the undersigned certifies that a true and correct copy of the document was delivered to Michael Risner, Enforcement Attorney, U. S. EPA – Region 8, 999 18<sup>th</sup> Street, Suite 300, Denver, CO 80202-2466. True and correct copies of the aforementioned document was placed in the United States mail certified/return receipt requested on September 28, 2005, to:

Mr. Harlan L Ochs  
Bold Petroleum, Inc.  
76 S. Sierra Madre St., Suite 200  
Colorado Springs, CO 80903-3388

And

Commander  
Finance Center (OGR)  
U. S. Coast Guard  
1430 A Kristina Way  
Chesapeake, VA 23326

September 28, 2005

  
Tina Artemis  
Regional Hearing Clerk



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